

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF GLENN EDWARD )	APPEAL NO. 06-A-2113
AMES from the decision of the Board of Equalization of )	FINAL DECISION
Bannock County for tax year 2006. )	AND ORDER

**RESIDENTIAL PROPERTY APPEAL**

THIS MATTER came on for hearing October 26, 2006, in Pocatello, Idaho, before Board Member David E. Kinghorn. Board Member Lyle R. Cobbs participated in this decision. Appellant Glenn Ames appeared for himself. Assessor Diane Bilyeu, Attorney Zachary Parris and Appraiser Jefferson Hunt appeared for Respondent Bannock County. This appeal is taken from a decision of the Bannock County Board of Equalization (BOE) modifying the protest of the valuation for taxing purposes of property described as Parcel No. RRDM1001000.

**The issue on appeal is the market value of residential property.**

**The decision of the Bannock County Board of Equalization is modified.**

FINDINGS OF FACT

The Bannock County BOE adjusted the subject assessment as follows: land value \$47,517, improvements' value \$350,835, for a total assessed value of \$398,352. Appellant requests the land value be reduced to \$39,875, and the improvements' value be reduced to \$248,786, totaling \$288,661.

The subject property is a single-family residence with four (4) bedrooms, three and one half (3½) baths and a three-car garage located on 2.38 acres in Pocatello, Idaho. The residence was built in 1996 and 1997.

Appellant testified subject was assessed in 2001 for \$273,000. In 2005, the property value was indexed higher. The current 2006 assessed value originally rose to \$420,375. The proposed 45% increase was appealed to the BOE and the value was subsequently reduced to \$398,352.

Taxpayer maintained the residence was not measured correctly. Appellant's Exhibit No. 1 included a foundation plan for subject residence and a concrete company letter attesting to pouring the foundation, footings and basement walls for a 2,455 square foot basement. Mr. Ames maintained the residence had been measured four times, and the square footage was still incorrect according to the plans and actual size. Appellant testified the residence was built according to the plans.

Appellant submitted three (3) sales and four (4) active listings of residential property. Square footage and site size were compared to subject's along with the sale and asking prices. One listing for \$342,000 was noted. The property was a 4,400 square foot residence completely finished with five (5) bedrooms and (3½) baths. The property was assessed for \$179,468.

Mr. Ames maintained the County's comparable sales were not truly comparable to subject in lot size, improvement square footage and location.

Appellant's Exhibit No. 3 was a CMA Summary Report. The report was explained to be a current market analysis indicating a subject value of \$329,933. The report was claimed to be a market analysis from a licensed real estate agent and appraiser establishing market value. The report included the dates of eight (8) sales which ranged from 2000 through 2006, total square footage of the structures, the closing dates, days on the market, the listing price per square foot, and the sale price and price per square foot. The average of the sale prices was calculated. Three expired listings were also presented with the days on the market, the listing price and listing price per square foot. The average of the expired listing prices was \$329,933.

The County submitted Respondent's Exhibit No. 1 which included the appeal notice, letters of correspondence, subject assessed value history, an adjustment grid with three (3) sales and subject details, and photographs. The exhibit also included a sketch of the subject residence

and a location map referencing subject and the three comparable sales.

The County Appraiser explained how the three sales were compared to subject and arrived at a total indicated value of \$370,000 as of January 1, 2006. Based on the new analysis prepared on appeal, Respondent recommended a reduction in subject's assessed value to \$370,000.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Appellant primarily charged that the County's square footage of the subject residence was inaccurate in comparison to blue prints. If an improper square footage was calculated and used by the County, Appellant maintained subject was overvalued. Appellant's value reduction claim centered on information received from a real estate broker and the charge that subject's square footage was incorrect.

On appeal, the County Appraiser re-measured the subject residence and compared it to three comparable sales. Based on the new appraisal, Respondent recommended subject's total assessed value be reduced to \$370,000.

63-205. ASSESSMENT -- MARKET VALUE FOR ASSESSMENT PURPOSES. (1)  
All real, personal and operating property subject to property taxation must be assessed annually at market value for assessment purposes as of 12:01 a.m. of the first day of January in the year in which such property taxes are levied, except as otherwise provided. Market value for assessment purposes shall be determined according to the requirements of this title or the rules promulgated by the state tax commission . . . .

Market value is defined in Idaho Code. The following code section contains the legal

definition.

§ 63-201. DEFINITIONS. As used for property tax purposes in title 63, chapters 1 through 23, Idaho Code, the terms defined in this section shall have the following meanings . . .

10) "Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

There are three generally accepted appraisal methods: cost, income, and market.

Fairway Dev. Co. v. Bannock County, 113 Idaho 933 at 937, 750 P.2d 954 (1988). Idaho Code § 63-208. In determining the value of property the assessor may and should consider cost, location, actual cash sale value and all other factors, known or available to his knowledge, which affect the value of the property assessed. Merris v. Ada County, 100 Idaho 59, 593 P.2d 394 (1979).

The Assessor re-measured the subject residence and made comparison adjustments to three 2005 sales to support a reduction in the assessed value. Appellant submitted a copy of an irregular shaped foundation plan along with a sketch addendum prepared by the County, and maintained the subject residence square footage did not match the foundation plan. The CMA Summary Report included sales and expired listings over a 6-year time period. The referenced properties were not specifically and individually compared to subject. Prices were simply averaged.

The value of property for purposes of taxation as determined by the assessor and Board of Equalization is presumed to be correct; and the burden of proof is upon the taxpayer to show by a preponderance of the evidence that he is entitled to the relief claimed. Greenfield Village Apartments, L.P. v. Ada County, 130 Idaho 207, 938 P.2d 1245 (1997). Idaho Code § 63-511(4).

In the record, we find the appraisal information submitted by the County more reliable in estimating the market value for subject. Therefore, the decision of the Bannock County Board of Equalization is modified to reflect an assessed value for subject of \$370,000.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bannock County Board of Equalization concerning the subject parcel be, and the same hereby is, modified to reflect a decrease in the assessed value to \$370,000.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 6th day of April, 2007.